IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 5574/1993
(Bhagwandas Vs. State of Rajasthan & Ors.)

Date of Order : 06/04/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. L.D.Khatri for the petitioner.
Mr. Yashwant Mehta for the respondents No.2 and 3.
Mr. B.L.Tiwari, Dy.G.A. for respondent State.

BY THE COURT:-

By the instant writ petition, the petitioner seeks to appoint him on regular basis on the post of Mistri.

I have heard learned counsel for the parties.

The facts and circumstances giving rise to the instant writ petition are that the petitioner was initially appointed on the post of Mistri in the year 1986 on daily wages basis. On increase of the work on account of the implementation of the Central and State Programmes, a meeting of the committee of respondent No.2 was held and it was decided to fulfill one post of Mistri. A communication was sent by the respondent No.3 Executive Officer, Nagarpalika, Jaisalmer to the respondent No.2 Administrator (Collector) Nagarpalika, Jaisalmer for obtaining

sanction from the respondent No.1 State for appointing the petitioner on regular basis vide Annex.1 stating therein that in the Budget for the year 1988-90 a provision for the post of Mistri has been made and a no objection certificate was sought for appointing the petitioner on the said post on regular basis. A administrative sanction was also sought vide Annex.2 with respect to the present petitioner for appointing him on the post of Mistri on regular basis though he has been working on daily wages since 1986. The communication Annex.2 shows that the post of Mistri was urgently needed in the respondent Municipality. Again vide Annex.3 dated 6.4.90 sanction was sought for appointing the petitioner on the post of Mistri appreciating the services rendered by him. The petitioner was shown to be an outstanding worker and discharging the work of Mistri efficiently with the respondents No. 2 and 3. Similar communication was also sent vide Annex.5 and 6.

A reply to the writ petition has been filed by the respondents No. 2 and 3 stating therein that the matter was referred to the respondent No.1 for obtaining sanction for regular appointment of the petitioner on the post of Mistri. Various communications noticed above have not been disputed by the respondents. It has also been stated that sanction has been issued in the Budget for the post of Mistri but administrative sanction has not been received, therefore, the

petitioner could not be appointed on regular basis though he has been working uninterruptedly since 1986. It has further been stated that the respondents No. 2 and 3 requested the respondent No.1 State for issuing no objection certificate and administrative sanction. In para 10 of the reply, it has been stated that the budget sanction has been issued but the petitioner's appointment on regular basis is awaiting administrative sanction.

From the stand taken by the respondents, it is clear that at no point of time, the respondents disputed the entitlement of the petitioner for appointment on the post of Mistri on regular basis. The financial sanction has already been granted for that purpose. From the facts pleaded in the reply to the writ petition and the various documents annexed with the writ petition as noticed above, the petitioner could not be appointed on regular basis for want of administrative sanction though all other formalities including financial sanction have been completed. In the circumstances, therefore, since the petitioner has been working for over 20 years as Mistri to the satisfaction of the respondents and the respondents have been taking his matter for regular appointment, in my view, there could be no justification for not considering the case for issuing the administrative sanction for appointment of the petitioner on the post of Mistri on regular basis. In this view of the matter,

the writ petition deserves to succeed.

In the result, in view of the aforesaid discussion, the writ petition is allowed. The respondent No.1 State is directed to accord administrative sanction as sought by the respondents No.2 and 3 for appointment of the petitioner on the post of Mistri on regular basis and on issuance of such administrative sanction, the petitioner be appointed on regular basis on the post of Mistri. There shall be no order as to costs.

(H.R.PANWAR),J.

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